



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,227	03/03/2004	Richard L. Perry	PERR.00001	4786

7590 03/24/2006
Law Office of Steven B. Leavitt
9914 Waterview Parkway
Rowlett, TX 75089

EXAMINER

CHIN, PAUL T

ART UNIT PAPER NUMBER

3652

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/792,227

Applicant(s)

PERRY, RICHARD L.

Examiner

PAUL T. CHIN

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment filed September 15, 2005, and the arguments with respect to the rejection(s) of claim(s) 1-19 under 35 USC 102 (b) and 103(a) have been fully considered and are persuasive in light of the amended claims. Therefore, the rejection has been withdrawn. However, the arguments are moot in view of a new ground(s) of rejection. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL.

Election/Restrictions

2. Applicant's election with traverse of Group I, readable in claims 1-19, in the reply filed on June 1, 2005, is acknowledged. The traversal is on the ground(s) that "examination of the claims to the device and method pose no additional burden upon examiner". This is not found persuasive because claims 1-19 are drawn to a carrying device by hand, classified in claim 294 and claim 20 is drawn to a method of transporting shoes or skis, classified in class 280. The method requires selecting the shoes, creating a hole on each heel of the shoe with a tool, and connecting the shoes by attaching a strap, which requires additional searches in classes 280 and 36, that would pose additional burden to the examiner. The requirement is still deemed proper and is therefore made FINAL.

3. This application contains claim 20 being drawn to an invention nonelected with traverse on June 1, 2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3652

5. Claims 8 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claimed languages of claims 8 and 18 are vague and indefinite. Applicant recites "the connecting strap being comprised of rope material" and it is unclear as to the particular meaning of "rope material". Applicant argues that "rope material is a commonly understood term in the art" (first paragraph of page 11). The examiner disagrees the argument. Note that a rope can be made of different materials such as nylon, steel, fabric, plastic, wires, and so on, and there is no definition as "rope materials", as applicant argues.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3,8, and 9, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Goodman (3,812,603).

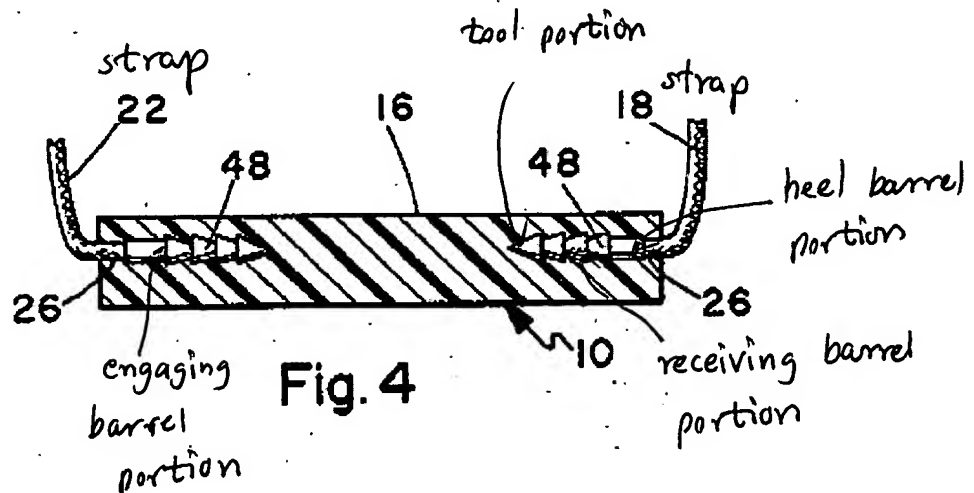
Goodman (3,812,603) discloses a shoe holder comprising a connecting strap (18 or 22), a pair of quick release members (see Fig. 4) having an engaging front portion and a heel portion (see Exhibit A, next page), and a pair of securing members, barbed end connectors, having a receiving barrel portion and a tool portion to receive the engaging barrel portion, wherein one of the barrel portion is permanently located inside a footwear

Art Unit: 3652

(16), and a housing member (17) detachably mountable to the connecting strap (18 or 22).

Re claims 2 and 3, the adjustable housing member (24) is being made of metal or plastic strap (Col. 2, lines 37-46) capable of being gripped by hand.

Re claims 8 and 9, the connecting strap (18,22) is being made of a resilient cord or an elastic cord (Col. 2, lines 19-25).

Exhibit A**Claim Rejections - 35 USC § 103**

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3652

9. Claims 1,8-11,18, and 19, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuetzeberg (4,733,897) in view of Marker (3,931,980).

Schuetzeberg discloses a carrier for shoes comprising a connecting strap (24) or a rubber strap and a fabric strap (46), a pair of shoes (see Fig. 1), a pair of quick release members (40,48) having an engaging front portion and a heel portion (Fig. 3), a pair of securing members (20,22) to receive the quick release members, and a housing (26,28). Schuetzeberg does not clearly show one of the securing members having a receiving barrel portion and a tool portion. However, Marker (3,931,980) teaches a quick release member (78) and a securing member (see Figs. 11-14 or another embodiment Figs. 15-18) having a receiving barrel portion and a tool portion. Accordingly, it would have been obvious to those skilled in the art to provide a securing member of Schuetzeberg (4,733,897) as taught by Marker (3,931,980) to quickly connect and disconnect the shoes and the strap.

10. Claims 2-7,12-17, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuetzeberg (4,733,897) in view of Marker (3,931,980), as applied to claims 1 and 11, and further in view of Schwartz (5,255,947) (see PTO-892).

Re claims 2,4,6,12,14,and 16, Schuetzeberg (4,733,897), as presented in section 9 above, does not show that the housing member (28,26) is being made of plastic, woven textile, or leather. However, Schwartz (5,255,947) teaches housing members (36,39) being made of any flexible or semi-flexible materials such as plastic, leather, heavy gauge fabric, and the like (lines 6-51 of Col. 3). Accordingly, it would have been obvious to those skilled in the art to provide the flexible or semi-flexible materials such as plastic, leather, heavy gauge fabric on the strap and the housing member of Schuetzeberg

Art Unit: 3652

(4,733,897) as taught by Schwartz (5,255,947) to provide a rigid housing (for plastic) and a flexible housing (for leather or textile) enclosing the strap.

Re claims 3,5,7,13,15, and 17, Schuetzeberg's carrier is capable of adjusting the connection with the strap (24,46).

Response to Arguments

11. Applicant's amendment filed September 15, 2005, and the arguments with respect to the rejection(s) of claim(s) 1-19 under 35 USC 102 (b) and 103(a) have been fully considered and are persuasive in light of the amended claims. Therefore, the rejection has been withdrawn. However, the arguments are moot in view of a new ground(s) of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Applicant's amendment (the addition of new structural limitations in claims 1 and 11, in combination with other structural limitations) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3652

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ptc

PTC



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600